



February 23, 2007

SENATE BILL No. 138

DIGEST OF SB 138 (Updated February 21, 2007 3:40 pm - DI 102)

Citations Affected: IC 3-11; IC 3-11.5.

Synopsis: Absentee voting. Requires a voter applying for an absentee ballot to provide information concerning the voter's identification before receiving an absentee ballot. Specifies that: (1) the voter must provide a description of and the identification number for the proof of identification the voter would submit if the voter were voting in person; or (2) if the voter does not provide a description of the proof of identification or the proof of identification does not have an identification number, the voter must provide the last four digits of the voter's Social Security number. Repeals a provision that exempts an absentee voter from providing proof of identification.

Effective: January 1, 2008.

Young R Michael, Heinold, Landske

January 8, 2007, read first time and referred to Committee on Local Government and Elections.

February 22, 2007, amended, reported favorably — Do Pass.

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SB 138—LS 6656/DI 102+



February 23, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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SENATE BILL No. 138

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-11-4-2, AS AMENDED BY P.L.103-2005,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2008]: Sec. 2. (a) A voter who wants to vote by absentee
4 ballot must apply to the county election board for an official absentee
5 ballot. Except as provided in subsection (b), the voter must sign the
6 absentee ballot application.
7 (b) If a voter with disabilities is unable to sign the absentee ballot
8 application and the voter has not designated an individual to serve as
9 attorney in fact for the voter, the county election board may designate
10 an individual to sign the application on behalf of the voter. If an
11 individual applies for an absentee ballot as the properly authorized
12 attorney in fact for a voter, the attorney in fact must attach a copy of the
13 power of attorney to the application.
14 (c) A person may provide an individual with an application for an
15 absentee ballot with the following information already printed or
16 otherwise set forth on the application when provided to the individual:
17 (1) The name of the individual.

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(2) The voter registration address of the individual.

(3) The mailing address of the individual.

(4) The date of birth of the individual.

~~(5) The voter identification number of the individual.~~

(d) A person may not provide an individual with an application for an absentee ballot with the following information already printed or otherwise set forth on the application when provided to the individual:

(1) The address to which the absentee ballot would be mailed, if different from the voter registration address of the individual.

(2) In a primary election, the major political party ballot requested by the individual.

(3) In a primary or general election, the types of absentee ballots requested by the individual.

(4) The reason why the individual is entitled to vote an absentee ballot:

(A) by mail; or

(B) before an absentee voter board (other than an absentee voter board located in the office of the circuit court clerk or a satellite office);

in accordance with IC 3-11-4-18, IC 3-11-10-24, or IC 3-11-10-25.

(5) The information required under section 5.1(d) of this chapter to be provided by an individual requesting an absentee ballot.

(6) The voter identification number of the individual.

(e) If the county election board determines that an absentee ballot application does not comply with subsection (d), the board shall deny the application under section 17.5 of this chapter.

(f) A person who assists an individual in completing any information described in subsection (d) on an absentee ballot application shall state under the penalties for perjury the following information on the application:

(1) The full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the person providing the assistance.

(2) The date this assistance was provided.

(3) That the person providing the assistance has complied with Indiana laws governing the submission of absentee ballot applications.

(4) That the person has no knowledge or reason to believe that the individual submitting the application:

(A) is ineligible to vote or to cast an absentee ballot; or

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1 (B) did not properly complete and sign the application.

2 (g) This subsection does not apply to an employee of the United
3 States Postal Service or a bonded courier company acting in the
4 individual's capacity as an employee of the United States Postal Service
5 or a bonded courier company. A person who receives a completed
6 absentee ballot application from the individual who has applied for the
7 absentee ballot shall file the application with the appropriate county
8 election board not later than:

9 (1) noon seven (7) days after the person receives the application;
10 or

11 (2) the deadline set by Indiana law for filing the application with
12 the board;

13 whichever occurs first.

14 (h) This subsection does not apply to an employee of the United
15 States Postal Service or a bonded courier company acting in the
16 individual's capacity as an employee of the United States Postal Service
17 or a bonded courier company. A person filing an absentee ballot
18 application, other than the person's own absentee ballot application,
19 must sign an affidavit at the time of filing the application. The affidavit
20 must be in a form prescribed by the commission. The form must
21 include the following:

22 (1) A statement of the full name, residence and mailing address,
23 and daytime and evening telephone numbers (if any) of the person
24 submitting the application.

25 (2) A statement that the person filing the affidavit has complied
26 with Indiana laws governing the submission of absentee ballot
27 applications.

28 (3) A statement that the person has no knowledge or reason to
29 believe that the individual whose application is to be filed:

30 (A) is ineligible to vote or to cast an absentee ballot; or

31 (B) did not properly complete and sign the application.

32 (4) A statement that the person is executing the affidavit under the
33 penalties of perjury.

34 (5) A statement setting forth the penalties for perjury.

35 (i) The county election board shall record the date and time of the
36 filing of the affidavit.

37 SECTION 2. IC 3-11-4-5.1, AS AMENDED BY P.L.1-2006,
38 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JANUARY 1, 2008]: Sec. 5.1. (a) The commission shall prescribe the
40 form of an application for an absentee ballot.

41 (b) This subsection does not apply to the form for an absentee ballot
42 application to be submitted by an absent uniformed services voter or

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overseas voter that contains a standardized oath for those voters. The form of the application for an absentee ballot must do all of the following:

(1) Require the applicant to swear to or affirm under the penalties of perjury that all of the information set forth on the application is true to the best of the applicant's knowledge and belief.

(2) Require a person who assisted with the completion of the application to swear to or affirm under the penalties of perjury the statements set forth in section 2(f) of this chapter.

(3) Set forth the penalties for perjury.

(c) The form prescribed by the commission shall require that a voter who:

(1) requests an absentee ballot; and

(2) is eligible to vote in the precinct under IC 3-10-11 or IC 3-10-12;

must include the affidavit required by IC 3-10-11 or a written affirmation described in IC 3-10-12.

(d) The form prescribed by the commission must require that a voter who requests an absentee ballot provide one (1) of the following:

(1) A description of and the identification number for the proof of identification the voter would submit if the voter were voting in person.

(2) The last four (4) digits of the voter's Social Security number, if:

(A) the voter does not provide a description of the proof of identification; or

(B) the proof of identification does not have an identification number.

SECTION 3. IC 3-11-4-17, AS AMENDED BY P.L.198-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 17. Upon receipt of an application for an absentee ballot, a circuit court clerk shall file the application in the clerk's office and record all of the following:

(1) The voter's name.

(2) The date the application is received.

(3) The information required under section 5.1(d) of this chapter to be provided by the voter.

~~(4)~~ (4) The date the ballot is sent to the voter.

~~(4)~~ (5) If mailed, the address to which the ballot is sent.

~~(5)~~ (6) If transmitted by fax, the fax number to which the ballot is faxed.

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~~(6)~~ (7) The date the ballot is marked before the clerk or otherwise received from the voter.

~~(7)~~ (8) The combined total number of absentee ballots sent by the county to absent uniformed services voters and overseas voters.

~~(8)~~ (9) The total number of absentee ballots returned by voters described in subdivision ~~(7)~~ (8) in time to be counted.

~~(9)~~ (10) The total number of absentee ballots described in subdivision ~~(7)~~ (8) that were counted in whole or in part.

~~(10)~~ (11) Any other information that is necessary or advisable.

SECTION 4. IC 3-11-10-22, AS AMENDED BY P.L.109-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 22. (a) If an absentee ballot is challenged under section 21 of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person.

(b) Except as provided in subsection (c), the challenge procedure under this section is the same as though the ballot was cast by the voter in person.

(c) An absentee voter is ~~not~~ required to provide ~~proof of identification; the information described in IC 3-11-4-5.1(d).~~

(d) If a proper affidavit is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, then the absentee ballot shall be placed in the ballot box.

SECTION 5. IC 3-11.5-4-16, AS AMENDED BY P.L.164-2006, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 16. (a) If an absentee ballot is challenged under section 15 of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person.

(b) Except as provided in subsection (c), the challenge procedure under this section is the same as though the ballot was cast by the voter in person.

(c) An absentee voter is ~~not~~ required to provide ~~proof of identification; the information described in IC 3-11-4-5.1(d).~~

(d) If a proper affidavit by a qualified person in the form required by IC 3-11-8-22.1 is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, the couriers shall return the affidavit to the county election board in the same envelope as the certificate returned under section 9 of this chapter.

(e) The absentee ballot cast by the challenged voter shall be counted if the county election board makes the findings required under section

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1 ~~11~~ **12** of this chapter.
2 SECTION 6. IC 3-11-10-1.2 IS REPEALED [EFFECTIVE
3 JANUARY 1, 2008].

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SENATE MOTION

Madam President: I move that Senator Heinold be added as second author and Senator Landske be added as coauthor of Senate Bill 138.

YOUNG R MICHAEL

COMMITTEE REPORT

Madam President: The Senate Committee on Local Government and Elections, to which was referred Senate Bill No. 138, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 1 through 6 with "[EFFECTIVE JANUARY 1, 2008]".

and when so amended that said bill do pass.

(Reference is to SB 138 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 10, Nays 0.

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